



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2010

Mr. Clark T. Askins
Askins & Askins P.C.
For City of La Porte
P.O. Box 1218
La Porte, Texas 77572-1218

OR2010-14156

Dear Mr. Askins:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 394896.

The City of La Porte (the "city"), which you represent, received a request for information related to a named police officer, excluding social security numbers, driver's license numbers, and home addresses. You state the officer's civil service file will be released to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes records concerning an officer other than the officer named in the request. Therefore, this information is not responsive to the present request. The city need not release nonresponsive information in response to this request, and this ruling will not address such information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 143.089 of the Local Government Code. You state that the city is a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files: a police officer's civil service file that the civil service director is required to maintain, and an internal file that the police department may maintain for its own use. Local Gov't Code § 143.089(a), (g). The police officer's civil service file must contain certain specified items, including commendations, periodic evaluations by the officer's supervisor, and documents from the employing department relating to any misconduct in which the department took disciplinary action against the officer under chapter 143 of the Local Government Code. *Id.* § 143.089(a)(1)-(2).

Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *Id.* §§ 143.051-.055; *see* Attorney General Opinion JC-0257 (written reprimand is not disciplinary action for purposes of Local Gov't Code chapter 143). Information maintained in a police department's personnel file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Tex. Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You state that the submitted information is contained in the La Porte Police Department's (the "department") internal file for the officer at issue and that this information is maintained under section 143.089(g). We note these documents include a periodic evaluation of the officer. The evaluation is subject to section 143.089(a). Consequently, if you have not done so already, this information must also be placed in the officer's civil service file. However, we agree that the information maintained in the department's internal file is confidential under section 143.089(g) of the Local Government Code and, therefore, the submitted information must be withheld from disclosure under section 552.101 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 394896

Enc. Submitted documents

c: Requestor
(w/o enclosures)